

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) RICHARD WAYNE HICKS,)	
)	
Plaintiff,)	
)	Case No.: CIV-17-296-SLP
vs.)	
)	
(1) CITY OF FAIRVIEW, OKLAHOMA, and)	
(2) CHARLES GADD)	
)	
Defendants.)	

**PLAINTIFF'S OBJECTIONS TO
DEFENDANT CHARLES GADD'S EXHIBIT LIST**

COMES NOW, the Plaintiff, and, pursuant to Rule 26(a)(3)(B) of the Federal Rules of Civil and this Courts Scheduling Order (Dkt. # 31), respectfully submits the following Objections to Defendant Charles Gadd's Exhibit List (Dkt. # 42):

No.	Defendant's Exhibit Description	Plaintiff's Objection
1.	Video of Incident	
2.	Medical records from Fairview Regional Medical Center (Medical 001-013)	
3.	Medical Records from Okeene Hospital Clinic (Medical 014-092)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Overly voluminous exhibit containing more than 75 pages. Contains irrelevant material.

		Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403.
4.	Medical Records from Neuroscience Specialists (Medical 093-214)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Overly voluminous exhibit containing more than 120 pages. Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403.
5.	Medical Records from Krablin Medical Clinic (Medical 215-264)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Overly voluminous exhibit containing more than 45 pages. Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially

		outweigh any probative value they may have. Rule 403.
6.	Medical Records from Mercy Kingfisher (Medical 265-276)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403.
7.	Medical Records from St. Mary's Regional Medical Center (Medical 277-1514)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Overly voluminous exhibit containing more than 1200 pages. Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403.
8.	Medical Records from Robin Matson, MD (Medical 1515-1529)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay.

		<p>Rules 801 and 802. Improper character evidence. Rule 404.</p> <p>Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403.</p>
9.	Medical Records from Oklahoma Spine Hospital (Medical 1530-1549)	<p>Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404.</p> <p>Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403.</p>
10.	Medical Records from Red Rock Behavioral Health (Medical 1550-1617)	<p>Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404.</p> <p>Overly voluminous exhibit containing more than 65 pages. Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially</p>

		outweigh any probative value they may have. Rule 403.
11.	Medical Records from Integris Bass Baptist Hospital (1652-2546)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Overly voluminous exhibit containing more than 890 pages. Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403.
12.	Medical Records from St. Anthony Hospital (Medical 1618-1651)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403.
13.	Medical Records from Oklahoma County Crisis Intervention (Medical 2547-2551)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay.

		<p>Rules 801 and 802. Improper character evidence. Rule 404.</p> <p>Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403.</p>
14.	Criminal Records from Blaine County (Criminal 001-045)	<p>Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Inadmissible evidence of an alleged crime. Rule 609. Has not been authenticated. Rule 901.</p>
15.	Criminal Records from Major County (Criminal 048-052)	<p>This exhibit deals entirely with a single misdemeanor charge from 1999 which was ultimately dismissed within a month of being filed. Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Inadmissible evidence of an alleged crime. Rule 609. Has not been authenticated. Rule 901.</p>
16.	Criminal Records from Cherokee County (Criminal 046-047)	<p>Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Inadmissible evidence of an alleged crime. Rule 609. Has not been</p>

		authenticated. Rule 901.
17.	Major County Sheriff's Office Inmate File (MCSO 1-27)	
18.	Major County EMS Records (MCEMS 1-5)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403. Hearsay. Rules 801 and 802. Improper character evidence. Rule 404. Inadmissible evidence of an alleged crime. Rule 609.
19.	CLEET Individual Full Profile of Gadd (OSBI 464-467)	
20.	Booking Photo of Hicks dated 9.5.15 (MCSO 0028)	Irrelevant to any claim or defense. Rules 401 and 402. Any probative value substantially outweighed by the danger of undue prejudice, confusion of the issues. Rule 403.
21.	Probable Cause Affidavit by Officer Meyer (OSBI 297-299)	
22.	MCSO File re Hicks (OSBI 263-279)	
23.	Photographs of Area of Incident (OSBI 304-316)	
24.	Incident Report by Officer Meyer (OSBI 418-424)	
25.	Narrative Report by Officer Fike (OSBI 448)	

26.	Email from DA Boring declining charges (OSBI 562)	
27.	All documents referred to or relied upon by expert witnesses.	Not sufficiently identified and/or produced during discovery. Plaintiff reserves further objection after identification and/or production of the Exhibits.
28.	All exhibits listed by Plaintiff and co-Defendant and not objected to by this Defendant.	
29.	All exhibits to depositions not previously listed herein.	Not sufficiently identified. Overly voluminous exhibit. Contains irrelevant material. Rules 401 and 402. Contains hearsay. Rules 801 and 802. Contains improper character evidence. Rule 404. Contains exhibits which create the danger of undue prejudice and/or confusion of the issues which substantially outweigh any probative value they may have. Rule 403. Contains Inadmissible evidence of an alleged crime. Rule 609. Contains discovery responses and pleadings which are improper exhibits and inadmissible. Contains exhibits that have not been authenticated. Rule 901.

Respectfully submitted,

SMOLEN, SMOLEN & ROYTMAN, PLLC

/s/ Daniel E. Smolen
Daniel E. Smolen, OBA #19943
701 South Cincinnati Avenue
Tulsa, OK 74119
(918) 585-2667
(918) 585-2669 Fax
danielsmolen@ssrok.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of September 2018, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registrants who have appeared in this case.

/s/ Daniel E. Smolen